

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jennifer Smith	Team: Squad #14	CCRB Case #: 201803438	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 03/23/2018 12:45 AM	Location of Incident: Northbound R-train platform at the Forest Hills-71st Avenue Subway Station	Precinct: 112	18 Mo. SOL 9/23/2019	EO SOL 9/23/2019	
Date/Time CV Reported Thu, 05/03/2018 9:46 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 05/03/2018 9:46 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SDS Frank Burns	02906	923596	DBMN OP
2. DT3 Daniel Howell	07279	922521	DBMN OP
3. DT3 Kenneth Faulkner	4612	941734	DBMN OP

Officer(s)	Allegation	Investigator Recommendation
A.SDS Frank Burns	Abuse: Sergeant Frank Burns searched § 87(2)(b) s recording device.	
B.SDS Frank Burns	Abuse: Sergeant Frank Burns refused to show the arrest warrant to § 87(2)(b)	
§ 87(4-b) § 87(2)(g)		
§ 87(4-b) § 87(2)(g)		

Case Summary

On April 25, 2018, § 87(2)(b) called the IAB Command Center and filed this complaint, which was received at the CCRB on May 3, 2018.

On March 23, 2018, at approximately 12:45 a.m., Sergeant Frank Burns, Detective Daniel Howell, and Detective Kenneth Faulkner, of the Manhattan North Wanted Apprehension Team, arrested § 87(2)(b) § 87(2)(b), on the northbound R-train platform at the Forest Hills-71st Avenue Subway Station in Queens. Sgt. Burns allegedly searched § 87(2)(b) cellphone (**Allegation A: Abuse of Authority, § 87(2)(g)**) and allegedly refused to show an arrest warrant to § 87(2)(b) (**Allegation B: Abuse of Authority, § 87(2)(g)**).

§ 87(2)(g)

There is no video evidence in this case.

Findings and Recommendations

Allegation A - Abuse of Authority: Sergeant Frank Burns searched § 87(2)(b) recording device.

Allegation B - Abuse of Authority: Sergeant Frank Burns refused to show the arrest warrant to § 87(2)(b)

It is undisputed that § 87(2)(b) was arrested pursuant to an arrest warrant and a probable-cause-to-arrest I-Card.

§ 87(2)(b) (01 Board Review) said he was cleaning out a subway car at the end of his shift when Sgt. Burns, Det. Howell, and Det. Faulkner approached him on the subway platform and said he was under arrest pursuant to an open warrant. § 87(2)(b) was handcuffed and searched incident to his arrest while § 87(2)(b) coworker, § 87(2)(b) watched. Sgt. Burns removed § 87(2)(b) cellphone from his pant pocket and asked § 87(2)(b) if it was his work phone. Sgt. Burns allegedly pressed the “home” button, which revealed a photograph of § 87(2)(b) children, and said, “This is your personal phone. We’re taking this.” § 87(2)(b) did not reply to Sgt. Burns. § 87(2)(b) asked Sgt. Burns to show him the arrest warrant and Sgt. Burns asked, “Why do I have to show you?” Sgt. Burns told § 87(2)(b) that he would “find out about his arrest warrant” at the 20th Precinct stationhouse, where he was ultimately transported. Neither Sgt. Burns, Det. Howell, nor Det. Faulkner ever showed § 87(2)(b) the arrest warrant, though detectives of the 20th Precinct ultimately did later on at the stationhouse.

§ 87(2)(b) was unavailable to the investigation (see IAs for contact attempts).

Sgt. Burns (02 Board Review) acknowledged searching § 87(2)(b) person, but he said he “absolutely did not” press the home button on § 87(2)(b) phone and review § 87(2)(b) phone screen. Sgt. Burns denied ever searching § 87(2)(b) phone and he had no recollection of ever holding § 87(2)(b) phone during the incident. Sgt. Burns denied ever hearing § 87(2)(b) ask to see the arrest warrant or I-Card, and he denied ever refusing to show him either of those documents. Sgt. Burns said he was only in possession of § 87(2)(b) I-Card and could not have shown § 87(2)(b) his arrest warrant regardless. After § 87(2)(b) was handcuffed and searched, § 87(2)(b) told the officers that they were arresting him with the intention of embarrassing him at work, and that he was going to file a complaint against them, to which the officers responded, “No problem.”

Det. Howell (03 Board Review) and Det. Faulkner (04 Board Review) denied seeing Sgt. Burns search § 87(2)(b) cellphone, and they denied ever seeing Sgt. Burns holding § 87(2)(b)

cellphone. Det. Howell acknowledged that § 87(2)(b) was told he was being arrested pursuant to an open warrant, while Det. Faulkner said § 87(2)(b) was told that he was under arrest pursuant to an I-Card. Det. Howell and Det. Faulkner both denied ever hearing § 87(2)(b) ask to see the arrest warrant. Det. Howell said § 87(2)(b) asked what he was being arrested for, and the officers told § 87(2)(b) that he was being taken to the 20th Precinct stationhouse to be interviewed by detectives.

§ 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (06 Board Review).
- Sgt. Burns has been a member-of-service for 19 years and has been a subject in seven CCRB complaints and 18 allegations, none of which were substantiated. § 87(2)(g)
- Det. Howell has been a member-of-service for 19 years and has been a subject in four CCRB complaints and four allegations, none of which were substantiated. § 87(2)(g)
- Det. Faulkner has been a member-of-service for 12 years and has been a subject in three CCRB complaints and six allegations, none of which were substantiated. § 87(2)(g)

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- On August 23, 2018, a Notice of Claim inquiry was sent to the New York City Comptroller's Office and it remains pending (07 Board Review). The results will be added to the casefile upon receipt.

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad No.: 14

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date